



Dallas County, Texas is as follows: George L. Allen, Sr. Courts Building, 600 Commerce Street, 5<sup>th</sup> Floor, West Tower, Dallas, Texas 75202.

2. Plaintiff in the State Court Action is Allstate Fire and Casualty Insurance Company, as Subrogee of Terry Hobbs ("Plaintiff"). Plaintiff is represented by Paul Vigushin (Texas Bar No. 00797600) of the Law Offices of Paul Vigushin, P.C., 2201 N. Central Expressway, Suite 115, Richardson, Texas 75080, (972) 705-9911, [paul@pv-law.com](mailto:paul@pv-law.com). Bradford White Corporation ("Defendant") is the defendant in the State Court Action and is represented by Kenneth C. Riney (Texas Bar No. 24046721) and Johnathan D. Jordan (Texas Bar No. 24100509) of Kane Russell Coleman Logan PC, 1601 Elm Street, Suite 3700, Dallas, Texas 75201, (214) 777-4200, [kriney@krcl.com](mailto:kriney@krcl.com), [jjordan@krcl.com](mailto:jjordan@krcl.com).

3. Defendant requested a trial by jury in the County Court at Law No. 4 in and for Dallas County, Texas, and the jury fee has been paid.

## **II.**

### **STATE COURT ACTION**

4. Plaintiff claims that on June 4, 2017, the Bradford White water heater installed in its insured's home located at 1925 Westcreek Drive, Garland, Texas 75042 failed, allowing water to escape and flood the insured's home. Plaintiff alleges that Defendant is strictly liable and was negligent in the design, manufacture and/or distribution of the water heater at issue and that Defendant breached various express and implied warranties based thereon.

## **III.**

### **GROUND FOR REMOVAL**

5. Defendant files this Notice of Removal on the grounds of diversity jurisdiction under 28 U.S.C. § 1332(a). A suit may be removed from state court to federal court on the

grounds of diversity jurisdiction when the suit involves a controversy between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending. *See* 28 U.S.C. § 1441. The Dallas Division of the Northern District of Texas is the United States district and division embracing Dallas County, Texas, the county in which the State Court Action is pending.

**A. This Notice of Removal is timely filed.**

7. The citation and petition in this action were served on Defendant on March 7, 2019 by serving Defendant's registered agent. This Notice of Removal is filed within thirty (30) days of receipt of the citation and petition and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

**B. Complete diversity exists between the parties properly joined.**

8. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332(a) and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446. Complete diversity exists in this case because Plaintiff and Defendant are citizens of different states.

**(i) Plaintiff**

9. As stated in Plaintiff's Original Petition, Plaintiff is an insurance company licensed to do business in the State of Texas. Plaintiff has filed suit as subrogee of its insured, Terry Hobbs, a Texas resident. It is the citizenship of the subrogee-insurer and not that of its insured which controls in analyzing whether parties are diverse. *See Navarro Savings Ass'n v.*

*Lee*, 446 U.S. 458, 460—61 (1980) (diversity jurisdiction based on citizenship of real party in interest); *Indiana Insurance Co. v. Vlaicevic*, No. 92 C 41, 1992 WL 191125, at \*1-\*2 (N.D.Ill. Aug. 5, 1992) (diversity determination based on citizenship of subrogee). According to the Texas Department of Insurance, Plaintiff is a company formed under the laws of the State of Illinois, having its principal place of business now and at the time this action was commenced in Northbrook, Illinois. Thus, Plaintiff is now and was at the time this action was commenced, a citizen of the State of Illinois.

(ii) **Defendant**

10. Defendant is a corporation formed under the laws of the State of Delaware, having its principal place of business now and at the time this action was commenced in Ambler, Pennsylvania. Thus, Defendant is now and was at the time this action was commenced a citizen of the State of Delaware and the Commonwealth of Pennsylvania.

11. As Plaintiff is a citizen of the State of Illinois and not of the State of Delaware or Commonwealth of Pennsylvania, complete diversity exists pursuant to 28 U.S.C. § 1332.

C. **The amount in controversy requirement is satisfied.**

12. The amount in controversy in this action, exclusive of interest and costs, exceeds the sum of \$75,000. As reflected in Plaintiff's Original Petition, Plaintiff is putting more than \$75,000 in damages at issue in this action. Specifically, as explicitly stated in Plaintiff's Original Petition, Plaintiff seeks monetary relief in excess of \$200,000, but not more than \$300,000. *See* Plaintiff's Original Petition, Sec. I. Therefore, the estimate of damages that has been put at issue in this action by Plaintiff and the amount in controversy in this action exceeds \$75,000.

13. Removal of the State Court Action is proper pursuant to 28 U.S.C. § 1441, since it is a civil action brought in a state court, and the federal district courts have original jurisdiction

over the subject matter under 28 U.S.C. § 1332(a) because Plaintiff and Defendant are diverse in citizenship and the amount in controversy exceeds \$75,000.

WHEREFORE, Defendant Bradford White Corporation, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, remove this action for trial from the County Court at Law No. 4 in and for Dallas County, Texas to this Court on this 4<sup>th</sup> day of April, 2019.

Respectfully submitted,

**KANE RUSSELL COLEMAN LOGAN PC**

By: /s/ Kenneth C. Riney  
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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this the 4<sup>th</sup> day of April, 2019, a copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel for Plaintiff by operation of the Court's electronic filing system, unless counsel for Plaintiff is not registered with the CM/ECF system, in which case the undersigned certifies that a copy of the foregoing document was sent to counsel for Plaintiff via certified mail, return receipt requested.

/s/ Kenneth C. Riney  
Kenneth C. Riney